

# Court of Appeals, State of Michigan

## ORDER

Kelly Kenny v Pioneer State Mutual Ins Co

Docket No. 278564

LC No. 05-010977-NF

Brian K. Zahra  
Presiding Judge

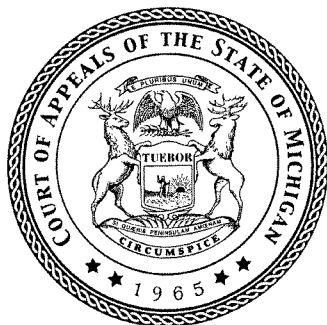
Peter D. O'Connell

Donald S. Owens  
Judges

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The Court orders that in lieu of granting the motion for appellate attorney fees under MCL 500.3148(1), the matter is REMANDED to Kent Circuit Court for a hearing on the motion. If the court determines that defendant unreasonably denied or delayed paying benefits, the court shall award plaintiff a reasonable attorney fee, consistent with *Smith v Khouri*, 481 Mich 519 (2008). Insofar as plaintiff requests sanctions for a vexatious appeal under MCR 7.216(C)(1), the request is DENIED.

We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

OCT 16 2008

Date

*Sandra Schultz Mengel*  
Chief Clerk